

UNITED STATES DISTRICT COURT

Eastern District of New York

Steven McCune

- v -

County of Suffolk, et. al.

Presiding Judge: **Joanna Seybert, Senior U.S.D.J.**Case No(s): **14-cv-4431-JS-ST**Date: **3/2/2023**Start Time: **9:05 AM** Total Time: **15 mins.****MINUTE ENTRY FOR A CIVIL PROCEEDING****SEALED PROCEEDING: ☐ Yes ☒ No****I. APPEARANCES:**Plaintiff : **Frederick K. Brewington, Esq.**Court Reporter: **Paul Lombardi**Defendant : **Arlene S. Zwilling, Esq.**

FTR Time: _____

Courtroom Deputy: **Eric L. Russo****II. PROCEEDINGS HELD:**

- | | | | |
|--|--|--|---|
| <input type="checkbox"/> In-Person | <input type="checkbox"/> Bench Trial | <input type="checkbox"/> Jury Deliberations | <input type="checkbox"/> Preliminary Injunction Hearing |
| <input checked="" type="checkbox"/> By Telephone | <input type="checkbox"/> Contempt Hearing | <input type="checkbox"/> Jury Selection (<i>Voir Dire</i>) | <input type="checkbox"/> Pre-Motion Conference |
| | <input type="checkbox"/> Evidentiary Hearing | <input type="checkbox"/> Jury Trial | <input checked="" type="checkbox"/> Status/Pre-Trial Conference |
| | <input type="checkbox"/> Fairness/Settlement Hearing | <input type="checkbox"/> Motion Hearing | <input type="checkbox"/> Show Cause Hearing |
- ☐ Other Proceeding: _____

III. PROCEEDINGS SUMMARY:

- ☐ Preliminary Injunction Hearing held.
- ☐ The parties presented their oral arguments to the Court.
- ☐ Witness(es) were called for the: ☐ _____; ☐ _____; ☐ _____.
- ☐ Exhibits were entered into evidence.
- ☐ The Court made the following ruling(s):
- | | |
|---|--|
| <input type="checkbox"/> Motion <u>granted</u> as to the: | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
| <input type="checkbox"/> Motion <u>denied</u> as to the: | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
| <input type="checkbox"/> Motion <u>granted, in part, and denied, in part</u> , as to the: | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
| <input type="checkbox"/> Motion found <u>moot</u> as to the: | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
| <input type="checkbox"/> Decision <u>reserved</u> as to the: | <input type="checkbox"/> Motion for Preliminary Injunction; <input type="checkbox"/> Motion for Temporary Restraining Order. |
- ☐ The following briefing schedule was set as to _____:
- | | |
|--|--------|
| <input type="checkbox"/> _____ shall serve the <u>motion</u> and all supporting papers by: | _____. |
| <input type="checkbox"/> _____ shall serve the <u>opposition to the motion</u> and all supporting papers by: | _____. |
| <input type="checkbox"/> _____ shall serve the <u>cross-motion</u> and all supporting papers by: | _____. |
| <input type="checkbox"/> _____ shall serve the <u>reply</u> and all supporting papers by: | _____. |
| <input type="checkbox"/> _____ shall serve the <u>opposition to the cross motion</u> and all supporting papers by: | _____. |
| <input type="checkbox"/> _____ shall serve the <u>reply to the cross motion</u> and all supporting papers by: | _____. |
- ☐ The parties were directed to file a proposed briefing schedule for the Court's consideration on or before _____.
- ☐ The Court ordered that no motion papers shall be filed on ECF until the motion is fully briefed on _____ (*same date as the final reply date*).
- ☐ The parties are to ensure courtesy copies of their submissions are promptly provided to Chambers.
(**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
- ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order.
- ☐ See Section IV of this minute entry (*page 5*) for additional details and/or rulings.

- ☒ Pre-Motion/Status/Pre-Trial Conference held.
- ☒ The parties advised the Court of the status of the case.
- ☐ The parties presented their oral arguments to the Court regarding the proposed motion(s).
- ☐ The following briefing schedule was set as to _____:
- ☐ _____ shall serve the motion and all supporting papers by: _____.
- ☐ _____ shall serve the opposition to the motion and all supporting papers by: _____.
- ☐ _____ shall serve the cross-motion and all supporting papers by: _____.
- ☐ _____ shall serve the reply and all supporting papers by: _____.
- ☐ _____ shall serve the opposition to the cross motion and all supporting papers by: _____.
- ☐ _____ shall serve the reply to the cross motion and all supporting papers by: _____.
- ☐ The parties were directed to file a proposed briefing schedule for the Court's consideration on or before _____.
- ☐ The Court deemed this case ready for trial (or was previously deemed ready for trial by the Magistrate Judge).
- ☐ The Court set the following pre-hearing/pre-trial submission schedule:
- ☐ Motions in Limine due by: _____.
- ☐ Oppositions to Motions in Limine due by: _____.
- ☐ Replies to Motions in Limine due by: _____.
- ☐ Proposed Voir Dire questions and case summary due by: _____.
- ☐ Proposed exhibits and witness list due by: _____.
- ☐ Requests to Charge and proposed verdict sheets due by: _____.
- ☐ _____: _____.
- ☐ The Court will enter a separate order outlining the pre-hearing/pre-trial submission schedule.
- ☐ The Court ordered that no motion papers shall be filed on ECF until the motion is fully briefed on _____ (same date as the final reply date).
- ☐ The parties are to ensure courtesy copies of their submissions are promptly provided to Chambers.
(**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
- ☒ See Section IV of this minute entry (page 5) for additional details and/or rulings.
- ☐ Contempt/Evidentiary/Motion/Show-Cause Hearing held.
- ☐ Hearing held regarding _____.
- ☐ _____ moved for:
- ☐ Judgment as a Matter of Law (Rule 50(a))
- ☐ Judgment Notwithstanding the Verdict (Rule 50(b))
- ☐ Mistrial/New Trial (Rule 59)
- ☐ _____.
- ☐ The parties presented their oral arguments to the Court.
- ☐ The following briefing schedule was set as to the motion(s) above:
- ☐ _____ shall serve the motion and all supporting papers by: _____.
- ☐ _____ shall serve the opposition to the motion and all supporting papers by: _____.
- ☐ _____ shall serve the cross-motion and all supporting papers by: _____.
- ☐ _____ shall serve the reply and all supporting papers by: _____.
- ☐ _____ shall serve the opposition to the cross motion and all supporting papers by: _____.
- ☐ _____ shall serve the reply to the cross motion and all supporting papers by: _____.
- ☐ The parties were directed to file a proposed briefing schedule for the Court's consideration on or before _____.
- ☐ The Court will enter a separate order outlining the post-trial submission schedule.
- ☐ The Court ordered that no motion papers shall be filed on ECF until the motion is fully briefed on _____ (same date as the final reply date).
- ☐ The parties are to ensure courtesy copies of their submissions are promptly provided to Chambers.
(**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
- ☐ Witness(es) were called for the: ☐ _____; ☐ _____; ☐ _____.
- ☐ Exhibits were entered into evidence.
- ☐ The Court made the following ruling(s): ☐ Motion granted; ☐ Motion denied; ☐ Motion granted, in part, and denied, in part.
- ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was reserved.
- ☐ See Section IV of this minute entry (page 5) for additional details and/or rulings.

- ☐ Fairness Hearing/Settlement Conference held.
- ☐ The parties outlined the details of the settlement agreement.
- ☐ No party(ies) appeared opposing the settlement.
- ☐ Objections to the proposed settlement were heard.
- ☐ The Court made the following ruling(s):
- ☐ Motion granted as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
- ☐ Motion denied as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
- ☐ Motion granted, in part, and denied, in part, as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
- ☐ Motion found moot as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
- ☐ Decision reserved as to the: ☐ Motion for Settlement Approval; ☐ Motion for Attorney Fees.
- ☐ The following briefing schedule was set as to _____:
- ☐ _____ shall serve the motion and all supporting papers by: _____.
- ☐ _____ shall serve the opposition to the motion and all supporting papers by: _____.
- ☐ _____ shall serve the cross-motion and all supporting papers by: _____.
- ☐ _____ shall serve the reply and all supporting papers by: _____.
- ☐ _____ shall serve the opposition to the cross motion and all supporting papers by: _____.
- ☐ _____ shall serve the reply to the cross motion and all supporting papers by: _____.
- ☐ The parties were directed to file a proposed briefing schedule for the Court's consideration on or before _____.
- ☐ The Court ordered that no motion papers shall be filed on ECF until the motion is fully briefed on _____ (same date as the final reply date).
- ☐ The parties are to ensure courtesy copies of their submissions are promptly provided to Chambers.
(**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
- ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order.
- ☐ See Section IV of this minute entry (page 5) for additional details and/or rulings.
- ☐ Bench Trial held/continued.
- ☐ Opening statements were heard from the: ☐ _____; ☐ _____; ☐ _____.
- ☐ Opening statements waived by the: ☐ _____; ☐ _____; ☐ _____.
- ☐ Witness(es) were called for the: ☐ _____; ☐ _____; ☐ _____.
- ☐ Exhibits were entered into evidence.
- ☐ _____ rests.
- ☐ _____ rests.
- ☐ _____ rests.
- ☐ Summations were heard from the: ☐ _____; ☐ _____; ☐ _____.
- ☐ Summations waived by the: ☐ _____; ☐ _____; ☐ _____.
- ☐ The Court set the following post-trial submission schedule:
- ☐ _____ Findings of Fact and Conclusions of Law are due by: _____.
- ☐ _____ Findings of Fact and Conclusions of Law are due by: _____.
- ☐ _____ Findings of Fact and Conclusions of Law are due by: _____.
- ☐ _____: _____.
- ☐ _____: _____.
- ☐ _____: _____.
- ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was reserved.
- ☐ See Section IV of this minute entry (page 5) for additional details and/or rulings.

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- ☐ Jury Selection (*Voir Dire*) held/continued.
- ☐ The prospective jurors were sworn and given preliminary instructions by the Court.
 - ☐ The prospective jurors were asked questions touching upon their qualifications to serve as jurors.
 - ☐ _____ moved for a Batson Challenge as to Juror Number _____.
 - ☐ The parties presented their oral arguments to the Court.
 - ☐ The motion was ☐ granted and the juror was excused; ☐ denied and the juror remains unchallenged.
 - ☐ A jury of _____ were selected and are satisfactory to all parties.
 - ☐ The selected jurors were sworn as trial jurors.
 - ☐ See Section IV of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Jury Trial held/continued.
- ☐ The selected jurors were sworn as trial jurors.
 - ☐ The jurors were given preliminary instructions by the Court.
 - ☐ Opening statements were heard from the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ Opening statements waived by the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ Witness(es) were called for the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ Exhibits were entered into evidence.
 - ☐ _____ rests.
 - ☐ _____ rests.
 - ☐ _____ rests.
 - ☐ The Charge Conference was held between the Court and the parties (absent the presence of the jury).
 - ☐ Summations were heard from the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ Summations waived by the: ☐ _____; ☐ _____; ☐ _____.
 - ☐ The Court charged the jury.
 - ☐ See Section IV of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Jury Deliberations held.
- ☐ Jury Notes were received and marked as Court Exhibits.
 - ☐ The Court instructed the jury to continue their deliberations pursuant to Allen v. United States (*Allen Charge*).
 - ☐ The jury rendered their verdict.
 - ☐ The jurors were polled as to their verdict.
 - ☐ The Verdict Sheet was received and marked as a Court Exhibit.
 - ☐ The jurors were excused with the thanks of the Court.
 - ☐ See Section IV of this minute entry (*page 5*) for additional details and/or rulings.

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IV. OTHER RULINGS MADE DURING THE PROCEEDINGS:

☐ The record of this proceeding was deemed sealed. Transcripts of this proceeding can be made available to the Court and the parties listed on the case **ONLY**. Any other non-party who wishes to get a copy of the transcripts must file a written request to the Court for consideration.

- ☒ - The parties advised the Court that they have been discussing settlement since the last conference and that they would be willing to go to Mediation.
- The parties also advised the Court that they would consider consenting to Magistrate Judge Tiscione for all purposes. Counsel will confer with their respective clients.

V. FURTHER PROCEEDINGS SET:

- ☐ Bench Trial: _____ at _____ before Judge _____ (_____).
- ☐ Contempt Hearing: _____ at _____ before Judge _____ (_____).
- ☐ Evidentiary Hearing: _____ at _____ before Judge _____ (_____).
- ☐ Fairness Hearing: _____ at _____ before Judge _____ (_____).
- ☐ Jury Selection: _____ at _____ before Judge _____ (_____).
- ☐ Jury Trial: _____ at _____ before Judge _____ (_____).
- ☐ Motion Hearing: _____ at _____ before Judge _____ (_____).
- ☐ Preliminary Injunction Hearing: _____ at _____ before Judge _____ (_____).
- ☐ Pre-Motion Conference: _____ at _____ before Judge _____ (_____).
- ☐ Pre-Trial Conference: _____ at _____ before Judge _____ (_____).
- ☐ Settlement Conference: _____ at _____ before Judge _____ (_____).
- ☐ Show Cause Hearing: _____ at _____ before Judge _____ (_____).
- ☒ Status Conference: 3/3/2023 at 10:30AM before Judge Joanna Seybert **(By telephone.)**

☒ Further instructions regarding the proceedings set:

- ☒ The Court ordered the proceeding(s) to be held via the Court's teleconferencing system. Parties are directed to dial the following telephone number at the designated time: **877-336-1839, access code 7231185.**

☐

☐ No further proceedings have been set at this time. (**Note:** Further proceedings may have been set previously. Refer to the docket sheet.)